

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1636

Introduced by Assembly Member Umberg

February 22, 2005

~~An act relating to voting systems.~~ *An act to amend Sections 15360, 17301, 17302, and 19250 of, and to add Sections 19200.5 and 19223 to, the Elections Code, relating to elections.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1636, as amended, Umberg. Voting systems.

(1) Existing law requires the Secretary of State to study and adopt regulations governing the use of voting machines, voting devices, and vote tabulating devices. *Existing law sets forth the procedures for the official canvass of every election in which a voting system is used and requires the elections official to conduct a public manual tally of the ballots tabulated by those devices cast in 1% of the precincts chosen at random.*

~~This bill would state the intent of the Legislature to improve voter confidence in the voting systems utilized in California by enacting certain directives issued by the Secretary of State into law.~~

This bill would require that in any precinct in which votes were cast on a direct recording electronic voting system the elections official use the paper record copy to conduct the 1% count.

(2) Existing law requires that an elections official keep, unopened and unaltered, certain voting documents for 22 months from the date of the election.

This bill would additionally require an elections official to keep paper record copies, if any, of voted polling place ballots.

(3) Existing law authorizes the Secretary of State to approve only those voting systems that meet specified requirements. Existing law requires elections officials using voting or vote tabulating equipment to inspect the machine or devices at least once every two years to determine their accuracy.

This bill would prohibit the Secretary of State from approving any voting system that permits a voter to exit a polling place with a facsimile of the ballot cast by that voter at that polling place. This bill would require the Secretary of State to conduct random audits of the software installed on direct recording electronic voting systems to ensure that the installed software is identical to the software that has been approved for use on that voting system.

(4) Existing law prohibits the Secretary of State from approving a direct recording electronic voting system unless the system has received federal qualification and includes a voter verified paper audit trail.

This bill would require all direct recording electronic voting systems to include a method by which a voter may electronically verify, through a non-visual method, the information that is contained on the paper record copy of that voter's ballot. The bill would require that a paper record copy that is printed by a voter verified paper audit trail component be printed in the same language that the voter used when casting his or her ballot. The bill would prohibit a direct recording electronic voting system from being connected to the Internet at any time, receiving or transmitting official election results through an exterior communication network, or receiving or transmitting wireless communications or wireless data transfers.

By imposing additional duties on local elections officials this bill imposes a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

~~SECTION 1. It is the intent of the Legislature to improve voter confidence in the voting systems utilized in California by enacting certain directives issued by the Secretary of State into law.~~

SECTION 1. Section 15360 of the Elections Code is amended to read:

15360. (a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts should be less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections official.

(b) In addition to the 1 percent count, the elections official shall, for each race not included in the initial group of precincts, count one additional precinct. The manual tally shall apply only to the race not previously counted.

(c) Additional precincts for the manual tally may be selected at the discretion of the elections official.

(d) *In any precinct in which votes were cast on a direct recording electronic voting system, as defined in Section 19251, the elections official shall use the paper record copy, as defined in Section 19251, for the purpose of conducting the 1 percent count described in subdivision (a).*

SEC. 2. Section 17301 of the Elections Code is amended to read:

17301. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The packages containing the following ballots and identification envelope shall be kept by the elections official, unopened and unaltered, for 22 months from the date of the election:

(1) Voted polling place ballots.

(2) *Paper record copies, as defined by Section 19251, if any, of voted polling place ballots.*

1 ~~(2)~~
2 (3) Voted absent voter ballots.
3 ~~(3)~~
4 (4) Absent voter identification envelopes.
5 ~~(4)~~
6 (5) Spoiled ballots.
7 ~~(5)~~
8 (6) Canceled ballots.
9 ~~(6)~~
10 (7) Unused absentee ballots surrendered by the voter pursuant
11 to Section 3015.
12 ~~(7)~~
13 (8) Ballot receipts.
14 (c) If a contest is not commenced within the 22-month period,
15 or if a criminal prosecution involving fraudulent use, marking or
16 falsification of ballots or forgery of absent voters' signatures is
17 not commenced within the 22-month period, either of which may
18 involve the vote of the precinct from which voted ballots were
19 received, the elections official shall have the ballots destroyed or
20 recycled. The packages shall otherwise remain unopened until
21 the ballots are destroyed or recycled.
22 *SEC. 3. Section 17302 of the Elections Code is amended to*
23 *read:*
24 17302. (a) The following provisions shall apply to all state or
25 local elections not provided for in subdivision (a) of Section
26 17301. An election is not deemed a state or local election if votes
27 for candidates for federal office may be cast on the same ballot as
28 votes for candidates for state or local office.
29 (b) The packages containing the following ballots and
30 identification envelopes shall be kept by the elections official,
31 unopened and unaltered, for six months from the date of the
32 election:
33 (1) Voted polling place ballots.
34 (2) *Paper record copies, as defined by Section 19251, if any,*
35 *of voted polling place ballots.*
36 ~~(2)~~
37 (3) Voted absent voter ballots.
38 ~~(3)~~
39 (4) Absent voter identification envelopes.
40 ~~(4)~~

1 (5) Spoiled ballots.

2 ~~(5)~~

3 (6) Canceled ballots.

4 ~~(6)~~

5 (7) Unused absent voter ballots surrendered by the voter
6 pursuant to Section 3015.

7 ~~(7)~~

8 (8) Ballot receipts.

9 (c) If a contest is not commenced within the six-month period,
10 or if a criminal prosecution involving fraudulent use, marking or
11 falsification of ballots or forgery of absent voters' signatures is
12 not commenced within the six-month period, either of which may
13 involve the vote of the precinct from which voted ballots were
14 received, the elections official shall have the packages destroyed
15 or recycled. The packages shall otherwise remain unopened until
16 the ballots are destroyed or recycled.

17 *SEC. 4. Section 19200.5 is added to the Elections Code, to*
18 *read:*

19 *19200.5. The Secretary of State shall not approve any voting*
20 *system that permits a voter to exit a polling place with a*
21 *facsimile of the ballot cast by that voter at that polling place.*

22 *SEC. 5. Section 19223 is added to the Elections Code, to*
23 *read:*

24 *19223. The Secretary of State shall conduct random audits of*
25 *the software installed on direct recording electronic voting*
26 *systems, as defined in Section 19251, to ensure that the installed*
27 *software is identical to the software that has been approved for*
28 *use on that voting system.*

29 *SEC. 6. Section 19250 of the Elections Code is amended to*
30 *read:*

31 19250. (a) On and after January 1, 2005, the Secretary of
32 State ~~may~~ *shall* not approve a direct recording electronic voting
33 system unless the system has received federal qualification and
34 includes an accessible voter verified paper audit trail.

35 (b) On and after January 1, 2006, a city or county ~~may~~ *shall*
36 not contract for or purchase a direct recording electronic voting
37 system unless the system has received federal qualification and
38 includes an accessible voter verified paper audit trail.

39 (c) As of January 1, 2006, all direct recording electronic
40 voting systems in use on that date, regardless of when contracted

1 for or purchased, shall have received federal qualification and
2 include an accessible voter verified paper audit trail. If the direct
3 recording electronic voting system does not already include an
4 accessible voter verified paper audit trail, the system shall be
5 replaced or modified to include an accessible voter verified paper
6 audit trail.

7 *(d) All direct recording electronic voting systems shall include*
8 *a method by which a voter may electronically verify, through a*
9 *nonvisual method, the information that is contained on the paper*
10 *record copy of that voter's ballot.*

11 *(e) A paper record copy that is printed by a voter verified*
12 *paper audit trail component shall be printed in the same*
13 *language that the voter used when casting his or her ballot on*
14 *the direct recording electronic voting system.*

15 *(f) A direct recording electronic voting system shall not be*
16 *connected to the Internet at any time.*

17 *(g) A direct recording electronic voting system shall not be*
18 *permitted to receive or transmit official election results through*
19 *an exterior communication network, including the public*
20 *telephone system.*

21 *(h) A direct recording electronic voting system shall not be*
22 *permitted to receive or transmit wireless communications or*
23 *wireless data transfers.*

24 *SEC. 7. If the Commission on State Mandates determines that*
25 *this act contains costs mandated by the state, reimbursement to*
26 *local agencies and school districts for those costs shall be made*
27 *pursuant to Part 7 (commencing with Section 17500) of Division*
28 *4 of Title 2 of the Government Code.*